

**AMENDMENTS TO CHAPTER 66, GENERAL PROVISIONS, CHAPTER 82,
SHORELAND & CHAPTER 102, ZONING REGARDING THE
REGULATION OF MEDICAL MARIJUANA FACILITIES**

Editor's Note: All text identified in black font is existing language in the Code of Ordinances. **Text identified in RED font** is text that is proposed to be added to the Ordinance. **Text identified in blue and strike-through font** is text that is proposed to be deleted from the Ordinance. Text **identified in Green Font** is additional information to the public to help explain a provision in the Ordinance. Text identified in **Green Font** is not part of the Ordinance amendments that would be adopted by the City. It is noted that most language in these proposed amendments is language that is to be added to the City Code of Ordinances. (See attached text of adopted amendments)

First Reading: October 2, 2018

Second Reading: December 18, 2018

Signature

Date

CHAPTER 66, GENERAL PROVISIONS

Chapter 66. General Provisions

Sec. 66-1. Definitions.

- (a) The purpose of this section is to provide a list of terms and their meanings so as to assist applicants and others in understanding the terms used in subpart B, Land Use Regulations. Unless incorporated by reference in another chapter or another city ordinance, the definitions in this section are not controlling.

Further, definitions that are unique to a specific ~~e~~Chapter of ~~s~~Subpart B, Land Use Regulations, can typically be found in that specific ~~e~~Chapter or rather than this ~~e~~Chapter. ~~For example, dDefinitions unique to Chapter 78, Floods, and Chapter 82, Shoreland, can be found in said chapters.~~ **are included in each of the following Chapters:**

- 1) Chapter 74, Building and Building Regulations;**
- 2) Chapter 78, Floods;**
- 3) Chapter 82, Shoreland;**
- 4) Chapter 86, Signs;**
- 5) Chapter 90, Site Plan;**
- 6) Chapter 94, Subdivisions;**
- 7) Chapter 98, Technical Standards; and**
- 8) Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Divisions 5, 7 and 8, and Chapter 102, Zoning, Article X, Contract Rezoning. (For example, Division 8 includes terms related to the regulation of medical marijuana.)**

Applicants and others are encouraged to consult the other chapters of subpart B, Land Use Regulations, for a list of terms and their meanings that may apply to a specific chapter.

- (b) In the interpretation and enforcement of subpart B, all words shall carry their customary dictionary meanings. For the purpose of subpart B, certain words and terms are defined as follows:
- (1) City means The City of Belfast.
 - (2) Municipal officers means the City Council.
 - (3) Tense and number. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
 - (4) Shall, may. The word "shall" is always mandatory; the word "may" is permissive.
 - (5) Person. Includes a firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual.
 - (6) Lot. The word "lot" includes the words "plot", "property", and "parcel."
 - (7) Building. The word "building" includes the word "structure."

ARTICLE I, IN GENERAL

Sec. 82-1 Definitions.

The following words, terms and phrases, when used in this eChapter, shall have the meanings ascribed to them in this sSection, except where the context clearly indicates a different meaning. The definition of other words, terms and phrases used in this eChapter shall have the meanings ascribed to them in the City Code of Ordinances, eChapter [66](#), General Provisions, except where the context clearly indicates a different meaning. **In addition, specific terms that apply to certain specific uses that can occur in Chapter 82, Shoreland, can be found in the following Divisions of Chapter 102, Zoning, Article VIII, Supplementary District Regulations: Division 5, Telecommunication Facilities, Division 7, Significant Groundwater Wells, and Division 8, Medical Marijuana Regulations.**

ARTICLE IV, DISTRICTS

Sec. 82-135 Table of Land Uses (Reference attached Shoreland Map for the location of the Shoreland Districts identified in this table.)

TABLE 1. LAND USES IN THE SHORELAND ZONE

	Land Uses	SP	SD	RP	LR	Districts UR	GDI	WD	MHC
(40)	Medical Marijuana Caregiver Retail Store	NO	PB	NO	NO	NO	PB	PB	NO
(41)	Medical Marijuana Manufacturing Facility	NO	PB	NO	NO	NO	PB	PB	NO
(42)	Medical Marijuana Testing Facility	NO	PB	NO	NO	NO	PB	PB	NO
(43)	Medical Marijuana Registered Dispensary	NO	NO	NO	NO	NO	NO	NO	NO

ARTICLE V, LAND USE STANDARDS

DIVISION 18: Medical Marijuana Facilities.

Medical marijuana caregiver retail stores, medical marijuana manufacturing facilities, and medical marijuana testing facilities that are permitted in a respective Shoreland District, reference Sec. 82-135, Table of Uses, shall comply with all applicable requirements of Chapter 82, Shoreland, and shall comply with requirements identified in Chapter 102, Zoning, Article V, Supplementary District Regulations, Division 8, Medical Marijuana Regulations.

CHAPTER 102, ZONING

ARTICLE I, IN GENERAL

Sec 102-1. Definitions

The definitions and words and terms used in this eChapter shall be as set forth in **Chapter 66, General Provisions, sSection 66-1. Several Divisions in Article VIII, Supplementary District Regulations also identify specific definitions that are applicable to that Division, including the following: Division 5, Telecommunication Facilities, Section 102-1032, Division 7, Significant Groundwater Wells, Section 102-1076, and Division 8, Medical Marijuana Regulations, Section 102-1085.**

ARTICLE V, DISTRICT REGULATIONS

Note to Public: Reference attached 2 maps that generally depict the zoning districts (areas) that would allow only medical marijuana caregiver retail stores and the districts that would allow caregiver retail stores, manufacturing facilities and testing facilities.

DIVISION 2. General Purpose "A" District

Sec. 102-322. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the General Purpose "A" District are as follows:

- (23) Medical Marijuana manufacturing facilities.**
- (24) Medical Marijuana testing facilities.**

DIVISION 3. General Purpose "B" District

Sec. 102-342. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the General Purpose "B" District are as follows:

- (20) Medical Marijuana manufacturing facilities.**
- (21) Medical Marijuana testing facilities.**

DIVISION 4. Residential/Agricultural I District.

Sec. 102-362. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Residential/Agricultural I District are as follows:

- (22) Medical Marijuana manufacturing facilities.**
- (23) Medical Marijuana testing facilities.**

DIVISION 5. Residential/Agricultural II District.

Sec. 102-382. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Residential/Agricultural II District are as follows:

- (27) Medical Marijuana manufacturing facilities.**
- (28) Medical Marijuana testing facilities.**

DIVISION 13. Searsport Avenue Waterfront District.

Sec. 102-562. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Searsport Avenue Waterfront District:

- (26) Medical Marijuana caregiver retail stores**
- (27) Medical Marijuana manufacturing facilities.**
- (28) Medical Marijuana testing facilities.**

DIVISION 15. Business Park - Airport District.

Sec. 102-602. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Business Park - Airport District are as follows:

- (2) Medical Marijuana manufacturing facilities.**

(3) Medical Marijuana testing facilities.

DIVISION 20. Protection Rural District.

Sec. 102-602. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Business Park - Airport District are as follows:

- (19) Medical Marijuana manufacturing facilities.**
- (20) Medical Marijuana testing facilities.**

DIVISION 21. Airport Growth District.

Sec. 102-722. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Airport Growth District are as follows:

- (6) Medical Marijuana manufacturing facilities.**
- (7) Medical Marijuana testing facilities.**

DIVISION 22. Residential Growth District.

Sec. 102-742. Permitted uses requiring Planning Board review.

Permitted uses requiring Planning Board review in the Residential Growth District are as follows:

- (15) Medical Marijuana manufacturing facilities.**
- (16) Medical Marijuana testing facilities.**

DIVISION 24. Route 3 Commercial District.

Sec. 102-768. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Route 3 Commercial District:

- (29) Medical Marijuana caregiver retail stores**
- (30) Medical Marijuana manufacturing facilities.**
- (31) Medical Marijuana testing facilities.**

DIVISION 25. Office Park District.

Sec. 102-774. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Office Park District:

- (16) Medical Marijuana manufacturing facilities.**
- (17) Medical Marijuana testing facilities.**

DIVISION 26. Route 141 and Mill Lane Commercial District.

Sec. 102-781. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Route 141 and Mill Lane Commercial District:

- (31) Medical Marijuana caregiver retail stores, provided that the property has road frontage on either Route One (Searsport Avenue) or Swan Lake Avenue (Route 141).**
- (32) Medical Marijuana manufacturing facilities.**
- (33) Medical Marijuana testing facilities.**

DIVISION 27. Route 137 Commercial District.

Sec. 102-787. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Route 137 Commercial District:

- (28) Medical Marijuana caregiver retail stores, provided that the property is located southerly of Merriam Drive on the westerly side of Route 137 (Waldo Avenue) and a line parallel to Merriam Drive on the easterly side of Route 137.**

- (29) Medical Marijuana manufacturing facilities.**
- (30) Medical Marijuana testing facilities.**

DIVISION 28. Route One South Commercial

Sec. 102-792. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Route One South Commercial District:

- (29) Boat building, boat repair, boat retrofitting, and boat storage, including the on-site sale of boats and accessory equipment.**
- (30) Medical Marijuana caregiver retail stores.**
- (31) Medical Marijuana manufacturing facilities.**
- (32) Medical Marijuana testing facilities.**

DIVISION 29. Searsport Avenue Commercial District.

Sec. 102-797. Permitted uses requiring Planning Board review.

The City Planning Board shall review and make decisions regarding applications for the following types of uses in the Searsport Avenue Commercial District:

- (33) Medical Marijuana caregiver retail stores.**
- (34) Medical Marijuana manufacturing facilities.**
- (35) Medical Marijuana testing facilities.**

DIVISION 30. Table of Uses. Downtown Commercial, Waterfront Mixed Use 1 and Waterfront Mixed Use 2.

Sec. 102-850. Use Table.

- Medical Marijuana caregiver retail stores.**
- Medical Marijuana manufacturing facilities.**
- Medical Marijuana testing facilities.**

**ARTICLE VIII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 8, MEDICAL MARIJUANA REGULATIONS**

Sec. 102-1084. Purpose and Applicability.

The State Legislature, through the adoption of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', has determined that a municipality must specifically vote to allow certain activities and facilities associated with medical marijuana if the municipality wants to allow such activities to operate in the municipality. The City has decided that medical marijuana registered caregiver retail stores, medical marijuana manufacturing facilities and medical marijuana testing facilities, are appropriate activities in Belfast, provided the respective activity/use occurs in a zoning district in which the City has specifically identified the respective activity/use as a permitted use, and provided that the respective use/activity complies with the standards identified in this Division and all requirements adopted by the State of Maine. The definitions and standards identified in this Division are intended to guide how the City will regulate the above identified uses that are associated with medical marijuana. The City, in adopting these provisions, acknowledges that medical marijuana offers benefits to certain members of its citizenry and that it is in the public interest to allow the above activities in Belfast.

Sec. 102-1085. Definitions.

The definitions identified this Section are intended to assist in the implementation of the requirements of this Division. These definitions shall apply to activities/uses that are identified as permitted uses in certain Districts of Chapter 82, Shoreland, Article IV, Districts, and Chapter 102, Zoning, Article V, District Regulations, and are intended to supplement the definitions adopted for the City Code of Ordinances, both Chapter 66, General Provisions, and Chapter 82, Shoreland, Article I, In General. Terms specifically related to the regulation and use of medical marijuana that are not defined in this Section shall be the same as said terms are defined by the State in PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law'.

- 1) **Edible marijuana product.** A marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana.
- 2) **Harvested marijuana.** The plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.
- 3) **Inherently hazardous substance.** A liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

- 4) **Manufacture or manufacturing.** The production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.
- 5) **Medical marijuana manufacturing facility.** A registered tier 1 or tier 2 manufacturing facility or a person or entity authorized to engage in marijuana extraction, as such is identified by the State in PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time. Manufacturing facilities include activities such as baking, cooking, trimming and curing as processing for the purpose of producing edibles.
- 6) **Marijuana concentrate.** The resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.
- 7) **Marijuana extraction.** The process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.
- 8) **Marijuana product.** A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.
- 9) **Medical use.** The acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.
- 10) **Medical marijuana testing facility.** A public or private laboratory that:
 - (a) Is authorized in accordance PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time, to analyze contaminants in and the potency and cannabinoid profile of samples; and
 - (b) Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the appropriate State agency.
- 11) **Registered dispensary.** An entity registered by the State pursuant to requirements of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

- 12) **Caregiver.** A person or an assistant of that person that provides care for a qualifying patient in accordance with provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time.
- 13) **Qualifying patient.** A person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with the provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time.
- 14) **Registration certificate.** A document issued by the appropriate State department that identifies an entity as an entity that has registered with said department in accordance with the provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time.
- 15) **Registered medical marijuana caregiver.** A caregiver who is registered by the appropriate State department, in accordance with the provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time.
- 16) **Registered medical marijuana caregiver retail store.** An establishment having the attributes of a typical retail establishment, such as but not limited to, signage, regular business hours, accessibility to the public, and sales directly to the consumer of the product, that is used by a registered caregiver to offer harvested medical marijuana for sale to qualifying patients.
- 17) **Registered patient.** A qualifying patient who is registered by the appropriate State department in accordance with the provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time.
- 18) **Sample.** A marijuana plant or harvested marijuana that is provided for testing or research purposes to a marijuana testing facility.

Sec. 102-1086. Standards for Medical Marijuana Caregiver Retail Stores, Manufacturing Facilities and Testing Facilities.

a) Permitted Use.

- 1) A permit application to operate a medical marijuana caregiver retail store, a medical marijuana manufacturing facility, or a medical marijuana testing facility shall only be considered by the City if the requested use is specifically identified as a permitted use in Chapter 102, Zoning, Article V, District Regulations, and if applicable, Chapter 82, Shoreland, Article IV, Districts. Said uses shall be considered a prohibited use in all other Zoning and Shoreland Zoning Districts.

2) A medical marijuana registered dispensary shall be a prohibited use in all Zoning and Shoreland Zoning Districts.

b) **Setbacks from Public and Private Schools.**

Note Public: The City has prepared a map that illustrates potential setback distances of both 500 ft and 1,000 ft for a caregiver retail store from a property line for a public or private school. Council, at the First Reading, supported (3-1-1 vote) a setback of 500 feet, which is the amount of setback recommended by the Belfast Planning Board.

1) Pursuant to the provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended by the State from time to time, and as such provisions are permitted to be amended by a municipality, the City requires that any medical marijuana caregiver retail store and all signage and advertising for said store shall be located not less than 500 feet from the property line of a preexisting public or private school. A preexisting school is one that was in operation on the date that the Belfast Planning Board conducted its first public hearing associated with an initial Use Permit application to the City for said store. The City shall use standards adopted by the State Department of Administrative and Financial Services to determine how to apply this setback requirement. If the State Department of Administrative and Financial Services has not adopted standards at the time that a caregiver retail store submits an application, the City shall consider the premises owned or leased by the school as the boundaries of the school property.

2) There is no minimum setback requirement for a medical marijuana manufacturing facility or medical marijuana testing facility from a public or private school, provided said facility does not display any signage or advertising that is inconsistent with the requirements of provisions identified PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', § 2429-B, Signs, advertising and marketing, and the facility complies with requirements of c) 1), advertising and signage, identified in this Section. If a medical marijuana manufacturing facility or medical marijuana testing facility displays advertising or signage that is inconsistent with the above requirements, said facility shall satisfy the same 500 foot setback requirement identified in b), 1) above that applies to a medical marijuana caregiver retail store.

c) **Advertising and Signage.**

1) The location, type and size of sign that a caregiver retail store may erect on a property or building shall comply with requirements identified in City Code of Ordinances, Chapter 86, Signs, and shall comply with State requirements identified in PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', reference § 2429-B, Signs, advertising and marketing. All signage and advertising also shall comply with the setback requirements identified in Sec. 102-1086, b); this City adopted setback requirement shall supersede any greater setback requirement

that may be identified in State law or regulations. With the exception of the setback requirement identified in Sec. 102-1086 b), if the requirements of the State law are more restrictive regarding signage than City requirements identified in Chapter 86, Signs, the requirements of State law shall prevail.

- 2) The location, type and size of sign that a medical marijuana manufacturing facility or medical marijuana testing facility may display shall be the smaller of the size of signage permitted in the respective zoning district in which the facility is located or 24 square feet, and said signage shall not be internally lighted or a digital sign. A medical marijuana manufacturing facility or medical marijuana testing facility shall be permitted to display a maximum of two signs; a freestanding sign, such as one that is located adjacent to the road frontage of the property, and one that is located on the building in which the facility operates. All signage that is displayed shall be consistent with the intent of provisions identified PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', § 2429-B, Signs, advertising and marketing.

d) **Compliance with other City Ordinances.**

A request for a permit to establish a medical marijuana caregiver retail store, a medical marijuana manufacturing facility or a medical marijuana testing facility shall comply with all permit standards identified in the City Code of Ordinances that would apply to any application to establish a retail, manufacturing or testing use that would be located in the same respective zoning district.

e) **Compliance with State Requirements.**

A request for a permit to establish a medical marijuana caregiver retail store, a medical marijuana manufacturing facility or a medical marijuana testing facility shall provide evidence to the City that they have obtained or can obtain any and all required licenses, permits or similar approvals from the State of Maine, as such may be required by provisions of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as such may be amended from time to time. An applicant must provide specific evidence to the City that all required State licenses, permits and similar approvals have been obtained prior to issuance of an occupancy permit.

Sec. 102-1087. Permit Fees.

The fee for a permit application to establish a medical marijuana caregiver retail store, a medical marijuana manufacturing facility or a medical marijuana testing facility shall be the same as the City fee for a Use Permit, Site Plan Permit, Shoreland Permit or similar permit. The City shall not assess any special or atypical fees for Planning Board consideration of a permit for any of the above uses.

Sec. 102-1088. Status of Medical Marijuana Facilities granted a permit prior to adoption of this Division.

Pursuant to requirements of PL 2017 c. 452 (LD 1539), 'An Act To Amend Maine's Medical Marijuana Law', as may be amended from time to time, the City shall recognize that any medical marijuana caregiver retail store, any medical marijuana manufacturing facility, and any medical marijuana testing facility that was granted a permit from the City prior to the effective date of this Ordinance or that can demonstrate by providing evidence to the City Code and Planning Department that they were in operation prior to the adoption of this Division, shall be considered a legally established nonconforming use of record. This standard similarly shall apply to any signage that was lawfully erected by an applicant who obtained a permit if said signage does not fully comply with requirements of Sec. 102-1086 a) or b). Any expansion of a facility that is considered a legally established nonconforming use of record, shall comply with requirements of Chapter 102, Zoning, Article III, Nonconformance, if said facility is located in a zoning district that does not allow the respective use, or if said facility does not comply with the requirements of this Division. A preexisting facility that is located in a zoning district that allows the use, or that can comply with the requirements of this Division, may expand, subject to the applicant obtaining permit approval from the Planning Board for the proposed expansion.